



February 25, 1999

## HOUSE BILL No. 1256

DIGEST OF HB 1256 (Updated February 24, 1999 3:22 pm - DI 51)

**Citations Affected:** IC 5-14.

**Synopsis:** Access to public employee personnel files. Allows the public to have access to information in the personnel file of a public employee concerning findings of fact and decisions in which final action has been taken and that resulted in the employee being suspended without pay or discharged.

**Effective:** July 1, 1999.

**Kersey**

January 11, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.  
February 24, 1999, amended, reported — Do Pass.

HB 1256—LS 7124/DI 87+



C  
o  
p  
y

February 25, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1256

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-14-3-4 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The following public records  
3 are excepted from section 3 of this chapter and may not be disclosed by  
4 a public agency, unless access to the records is specifically required by  
5 a state or federal statute or is ordered by a court under the rules of  
6 discovery:

7           (1) Those declared confidential by state statute.

8           (2) Those declared confidential by rule adopted by a public  
9 agency under specific authority to classify public records as  
10 confidential granted to the public agency by statute.

11          (3) Those required to be kept confidential by federal law.

12          (4) Records containing trade secrets.

13          (5) Confidential financial information obtained, upon request,  
14 from a person. However, this does not include information that is  
15 filed with or received by a public agency pursuant to state statute.

16          (6) Information concerning research, including actual research  
17 documents, conducted under the auspices of an institution of

HB 1256—LS 7124/DI 87+



higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under



section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning ~~disciplinary actions~~ **findings of fact and decisions** in which final action has been taken and that resulted in the employee being ~~disciplined~~ **suspended without pay** or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under

C  
O  
P  
Y



subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.



C  
O  
P  
Y

1 (2) A list of persons attending conferences or meetings at a state  
2 institution of higher education or of persons involved in programs  
3 or activities conducted or supervised by the state institution of  
4 higher education.

5 (3) A list of students who are enrolled in a public school  
6 corporation if the governing body of the public school corporation  
7 adopts a policy:

8 (A) prohibiting the disclosure of the list to commercial entities  
9 for commercial purposes; or

10 (B) specifying the classes or categories of commercial entities  
11 to which the list may not be disclosed or by which the list may  
12 not be used for commercial purposes.

13 A policy adopted under subdivision (3) must be uniform and may not  
14 discriminate among similarly situated commercial entities.

15 (d) Nothing contained in subsection (b) shall limit or affect the right  
16 of a person to inspect and copy a public record required or directed to  
17 be made by any statute or by any rule of a public agency.

18 (e) Notwithstanding any other law, a public record that is classified  
19 as confidential, other than a record concerning an adoption, shall be  
20 made available for inspection and copying seventy-five (75) years after  
21 the creation of that record.

22 (f) Notwithstanding subsection (e) and section 7 of this chapter:

23 (1) public records subject to IC 5-15 may be destroyed only in  
24 accordance with record retention schedules under IC 5-15; or

25 (2) public records not subject to IC 5-15 may be destroyed in the  
26 ordinary course of business.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1256, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 23, after "actions" insert "**findings of fact and**".

Page 3, line 25, delete ",."

Page 3, line 26, delete "demoted, transferred, reassigned,".

and when so amended that said bill do pass.

(Reference is to HB 1256 as introduced.)

KUZMAN, Chair

Committee Vote: yeas 12, nays 0.

C  
o  
p  
y

